

**CITY OF LAKEWAY  
ORDINANCE NO. 2015-12-21-02**

**ZONING CODE AMENDMENT: SHORT-TERM RENTAL USE**

**AN ORDINANCE AMENDING ARTICLE 6.05 "SHORT-TERM RENTAL USE" AND ARTICLE 6.06 "HOTEL OCCUPANCY TAX" OF CHAPTER 6 "BUSINESS REGULATIONS", AND ARTICLE 30.05 "SPECIAL USE PERMITS" OF CHAPTER 30 "ZONING" OF THE CITY OF LAKEWAY CODE OF ORDINANCES TO ADOPT NEW PROVISIONS CREATING A SPECIAL USE PERMIT FOR SHORT-TERM RENTAL USE, ESTABLISHING REQUIREMENTS FOR THE ISSUANCE, MAINTENANCE, AND RENEWAL OF SUCH PERMITS, PROVIDING FOR THE REVOCATION OF SAME AND PENALTY FOR VIOLATIONS TO THIS ORDINANCE; AND PROVIDING FOR FINDINGS OF FACT; SEVERABILITY; REPEALER; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.**

WHEREAS, the City Council of the City of Lakeway, Travis County, Texas seeks to provide for the public health, safety and welfare of its citizens; and

WHEREAS, the City Council seeks to promote orderly and safe use of property within the city; and

WHEREAS, the City Council desires to protect and preserve the dignity and sanctity low-density, single-family residential neighborhoods, which are the city's primary land use category; and

WHEREAS, the Zoning and Planning Commission held discussion and invited public comment on the proposed amendments in public hearings held October 7, November 4, and December 2, 2015; and

WHEREAS, the Zoning and Planning Commission found that it is in the best interests of the citizens of Lakeway, Texas, to recommend adoption of the proposed amendments; and

WHEREAS, the City Council held discussion and invited public comment on the proposed amendments in public hearings held October 19, November 16, and December 21, 2015; and

WHEREAS, the City Council finds that it is in the best interests of the citizens of Lakeway, Texas, to adopt the proposed amendment;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LAKEWAY, TEXAS:

## **Article 1. Findings of Fact**

All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

## **Article 2. General**

### **Section 2.01            Authority**

This ordinance is adopted under the authority of the Constitution and laws of the State of Texas, particularly including Chapter 211 of the Texas Local Government Code.

### **Section 2.02            Purpose**

The purpose of this ordinance is to amend setback regulations in the R-5 (Condominium) and C-1 (Office/Retail) zoning districts in the Zoning chapter of the Code of Ordinances.

## **Article 3. Revisions**

**Revision 1.    Chapter 6, Business Regulations, shall be amended in part in accordance with Exhibit A.**

**Revision 2.    Chapter 30, Zoning, shall be amended in part in accordance with Exhibit B.**

## **Article 4. Severability**

Should any sentence, paragraph, subdivision, clause, phrase, or section of this ordinance be adjusted or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance in whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

## **Article 5. Repealer**

The provisions of this ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent that such inconsistency is apparent. This ordinance shall not be construed to require or allow any act which is prohibited by any other ordinance.

## Article 6. Effective Date

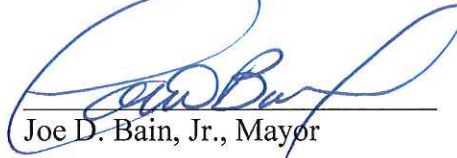
This ordinance shall take effect immediately from and after its passage and publication as may be required by law.

## Article 7. Proper Notice and Meeting

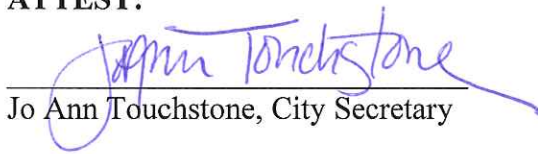
It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

ADOPTED, PASSED AND APPROVED this 21<sup>st</sup> day of December, 2015.

**CITY OF LAKEWAY:**

  
Joe D. Bain, Jr., Mayor

**ATTEST:**

  
Jo Ann Touchstone, City Secretary

## CHAPTER 6

### BUSINESS REGULATIONS

#### ARTICLE 6.05 SHORT-TERM RENTAL USE

##### **Sec. 6.05.001—Purpose**

~~The provisions of this article are deemed to be the minimal necessary regulations for the purpose of regulating short-term rental use within the city's corporate limits, and are designed to ensure that properties used for short-term rental use, as defined in article 22.02 of this code, are occupied in a safe and healthful manner and do not encroach on the rights of other neighboring property owners to peacefully enjoy their property.~~

##### **Sec. 6.05.002—Jurisdiction**

~~This article applies to all short-term rental use within the corporate limits of the city.~~

##### **Sec. 6.05.003—License required**

~~(a) No owner or real estate manager of residential property shall conduct, operate, or maintain residential property for the purposes of short-term rental use, as defined in article 22.02 of this code, in the city without the owner first having obtained and paid for a valid license from the code official, and complying with the requirements of this article, as may be amended, and all applicable provisions of the city's ordinances.~~

~~(b) The applicant for a license subject to this article shall pay a fee as established by the city council and file a completed and verified application with the city on the form promulgated by the city, and at a minimum shall provide the following information:~~

~~(1) Address of the property proposed to be used for short-term rental use;~~

~~(2) Owner and contact information for the owner of the real property;~~

~~(3) The type of property, such as single-family, duplex, or condominium;~~

~~(4) Local contact person with contact information who will manage the property to be used for short-term rental use if different than the owner;~~

~~(5) Written authorization from the owner of the real property verifying that the property will be used for short-term rental use; and~~

~~(6) Any additional information on the form promulgated by the city, or as deemed necessary by the director of building and development services to process the application.~~

~~(c) Once the code official certifies that an application is complete and authorized by the zoning, chapter 30 of this code for the requested location, a license shall be issued to the owner of the property.~~



~~(d) — Any person who operates a property for short term rental use where the owner has not obtained a license from the city commits a class C misdemeanor punishable in accordance with section 6.05.012.~~

**~~Sec. 6.05.004 — General use standards~~**

~~A license issued for short term rental use may be suspended or revoked by the city in accordance with section 6.05.006 if a complaint is received, and, if, after investigating the complaint following the procedure outlined in section 6.05.007, it is determined that one or more of the following conditions have been violated:~~

~~(1) — All structures housing short term rental use shall comply with this article and any other applicable regulations of this code.~~

~~(2) — Parking by renters or their guests shall be limited to the right of way abutting the rental property and to the garage and driveway on the rental property, and shall not encroach upon or obstruct ingress and egress to the neighboring properties.~~

~~(3) — Advertisement of the short term rental use shall not be displayed on the premises of the property in any manner that is visible from the exterior of the house.~~

~~(4) — Holders of a short term rental use license shall comply and ensure that their tenants comply with all applicable city ordinances and state laws regulating litter, waste disposal, noise, nuisance, and other regulations for the protection of the health, safety, and welfare of the public.~~

~~(5) — Tenants of a property used for short term rental use shall not create a nuisance by way of noise, damage, odors, inconsiderate or offensive behavior, late night parties, illegal alcohol or drug use, public urination, public exposure, disturbance of the peace, disorderly conduct, or any other conduct that may constitute a private or public nuisance.~~

**~~Sec. 6.05.005 — Duration~~**

~~All licenses issued for short term rental use shall be valid for a period of three (3) years, unless the license is revoked by the city.~~

**~~Sec. 6.05.006 — Warning, license denial, suspension and revocation~~**

~~(a) — A code enforcement officer or police officer may issue one or more warnings or citations to any person who is the subject of a complaint or who violates the terms of this article or any city ordinance as described in section 6.05.004. When warnings or citations are issued, the local manager of the subject property shall be notified.~~

~~(b) — After a property owner or tenant has received a minimum of one (1) conviction in municipal court for a violation of the terms of this article or any city ordinance as described in section 6.05.004, the director of building and development services may deny an application for a license or may suspend or revoke any license granted hereunder by serving applicant or licensee with written notice by hand delivery or certified mail, return receipt requested, if the~~



~~applicant or licensee is found to be in violation of this article or other applicable municipal regulation, or due to a valid complaint filed with the city as described in section 6.05.007.~~

~~(c) — If the director of building and development services issues a written notice of denial, suspension or revocation of a license to the applicant or licensee, such notice shall contain, at a minimum, the following:~~

- ~~(1) — The address of the location and name of the applicant or licensee;~~
- ~~(2) — A statement that the license is denied, suspended or revoked;~~
- ~~(3) — The reason(s) for the denial, suspension or revocation;~~
- ~~(4) — An order that the location is closed for short term rental use;~~
- ~~(5) — Recommended corrective measures, if any, that will bring the activities or conditions on the property into compliance with the requirements of this or any other applicable ordinance;~~
- ~~(6) — A reasonable time limit for the completion of such corrective measures, if any;~~
- ~~(7) — A statement that the license, if suspended, is subject to revocation for failure to complete the corrective measures within the allotted time; and~~
- ~~(8) — A statement that the denial, suspension or revocation may be appealed to the board of adjustment under the provisions set forth in section 6.05.008 of this article.~~

~~(d) — Revocation of a license shall be for a period of six (6) months.~~

**Sec. 6.05.007 — Complaint procedure**

~~(a) — The director of building and development services shall have primary jurisdiction to receive, investigate and respond to complaints about activities or conditions at any location for which a short term rental use license has been issued. In addition to members of the public, a complaint may be initiated by an employee or officer of the city, including a code enforcement officer, a police officer, the director of building and development services or the city manager.~~

~~(b) — Such a complaint may be made verbally, in writing, by telephone, by electronic mail or other effective communications method to a code enforcement officer, a police officer, the director of building and development services or the city manager.~~

~~(c) — Any other city official or employee who receives such a complaint shall either forward the same to a code enforcement officer, the police department, the director of building and development services or the city manager, or shall direct the complainant to one of the foregoing city officers. Failure of the complaint to be submitted promptly or to the correct person or entity shall not be considered as grounds for the city to dismiss, ignore, or invalidate a complaint.~~

~~(d) — The person receiving the complaint on behalf of the city shall request that a verbal complaint be reduced in writing. The name, address, phone number or other reliable contact information shall be provided by the complainant.~~



~~(e) — A code enforcement officer, a police officer, the director of building and development services or the city manager may investigate any valid complaint regarding activities or conditions at any location for which a short term rental use license has been issued, and it shall be the responsibility of the director of building and development services to compile such information, such as police reports, witness statements, photographs and other relevant documentation, and, based on that information, make a determination of appropriate action in response to the complaint. Action may include suspension or revocation of a license, citation for violation of this article, or other action, and to prepare the notice described in section 6.05.008, if applicable.~~

**~~Sec. 6.05.008 — Appeals~~**

~~(a) — Determinations made by the director of building and development services may be appealed to the board of adjustment.~~

~~(b) — The determinations made by the director of building and development services with regard to suspension, revocation, or denial of a license are final unless, within 30 calendar days from the date of receiving the written notice described in section 6.05.006, the owner or operator files with the city secretary a written appeal to the board of adjustment specifying reasons for the appeal. Within fifteen (15) business days of the filing of an appeal, the director of building and development services shall prepare a report indicating the reasons for the denial, suspension or revocation, and shall provide a copy to the applicant or licensee, as well as indicate the date and time that the appeal has been scheduled for hearing before the board of adjustment.~~

~~(c) — Written notice of the public hearing before the board of adjustment shall be given to the owners of all real property located within 200 feet in all directions of the property that is the subject of the hearing. Notice shall be given not less than ten (10) days prior to the date of the hearing either by personal service or by depositing a copy of the notice in the mail addressed to each owner at his address shown on the last approved city tax roll, with postage prepaid.~~

~~(d) — Such notice shall state the purpose, date, time, and place of the hearing and shall contain a brief description of the appeal including its nature, scope, and location. The notice shall also state the location and times at which the applications and supporting documents are available for public inspection. A telephone number shall be provided where information on the hearing is available.~~

**~~Sec. 6.05.009 — Transfer~~**

~~A short term rental use license may not be transferred or assigned to any third party except heirs and assigns, and the license shall be void upon transfer of ownership of the property where the short term rental use is located. Upon change of ownership, the new owner must apply for a new short term rental use license in order for short term rental use activity to be authorized.~~

**~~Sec. 6.05.010 — Renewal~~**

~~(a) — No less than 30 days prior to the expiration of the license, the licensee shall apply for a renewal and pay the applicable fee for renewal of the license.~~

~~(b) — The director of building and development services may approve a renewal of the short-term rental use license for an additional 36-month period.~~

**~~Sec. 6.05.011 — Enforcement authority~~**

~~The director of building and development services or his designee, a city police officer, or the city manager or his or her designee shall be authorized to administer and enforce the provisions of this article.~~

**~~Sec. 6.05.012 — Penalty~~**

~~Any person who operates a property for short-term rental use without obtaining a license from the city shall upon conviction, be guilty of a misdemeanor and be punished by a fine not to exceed two thousand dollars. Each day the violation occurs shall constitute a separate offense. Any person violating this article is subject to a suit for injunction as well as prosecution for criminal violations.~~

**ARTICLE 6.06 HOTEL OCCUPANCY TAX\***

**Sec. 6.06.001 Definitions**

For the purpose of regulating business within the city, the following terms, phrases, words and their derivations shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning.

[...]

*Hotel.* Any building or buildings in which the public may for a consideration obtain sleeping accommodations, including hotels, motels, tourist homes, houses of courts (tourist courts), lodging houses, inns, rooming houses, bed and breakfast establishments, short-term rental use, as defined in article 22.02 of this code, or other buildings where rooms are furnished for a consideration, but not including hospitals, sanitariums or nursing homes, dormitories or other housing provided by higher education institutions.



CHAPTER 30

ZONING

ARTICLE 30.03 ZONING USE REGULATIONS

**Sec. 30.03.002 District R-1 and R-1\* (Single-Family Residential)**

[...]

(b) Permitted uses.

- (1) One-family dwelling limited to no more than one (1) such building per lot occupied by no more than one (1) family;
- (2) Accessory structures incidental to the foregoing permitted use; and
- (3) Home occupation use as set forth in sections 30.05.002 through 30.05.005; ~~and~~
- ~~(4) Short-term rental use.~~

(c) Special uses.

- (1) Short-term rental use, subject to the city council's approval of a special use permit pursuant to Article 30.05.

[...]

**Sec. 30.03.003 District R-2 (Single-Family Residential - Garden/Patio Home)**

[...]

(b) Permitted uses.

- (1) One-family dwelling limited to no more than one (1) such building per lot occupied by no more than one (1) family;
- (2) Accessory structures incidental to the foregoing permitted use; and
- (3) Home occupation use as set forth in sections 30.05.002 through 30.05.005; ~~and~~
- ~~(4) Short-term rental use.~~

(c) Special uses.

- (1) Short-term rental use, subject to the city council's approval of a special use permit pursuant to Article 30.05.

[...]

**Sec. 30.03.004 District R-3 (Single-Family Residential - Zero Lot Line-Modified)**

[...]

(b) Permitted uses.

- (1) One-family dwelling limited to no more than one (1) such building per lot occupied by no more than one (1) family;
- (2) Accessory structures incidental to the foregoing permitted use; and
- (3) Home occupation use as set forth in sections 30.05.002 through 30.05.005; ~~and~~
- ~~(4) Short-term rental use.~~

(c) Special uses.

- (1) Short-term rental use, subject to the city council's approval of a special use permit pursuant to Article 30.05.

[...]

**Sec. 30.03.005 District R-4 (Duplex)**

[...]

(b) Permitted uses.

- (1) Those uses permitted in R-1 district;
- (2) Two single-family dwelling units limited to no more than one building per lot occupied by no more than two (2) families;
- (3) Accessory structures incidental to the foregoing permitted use; and
- (4) Home occupation use as set forth in sections 30.05.002 through 30.05.005; ~~and~~
- ~~(4) Short-term rental use.~~

(c) Special uses.

- (1) Short-term rental use, subject to the city council's approval of a special use permit pursuant to Article 30.05.

[...]

**Sec. 30.03.005.5 District R-5 (Condominium)**

[...]

(b) Permitted uses.

- (1) Condominiums, not to exceed six (6) dwelling units per acre, connected to an organized sewer system, pursuant to a condominium regime as permitted by the Condominium Act of the state. Each dwelling unit in a condominium regime shall be used for the purposes of a single-family residence;
- (2) Accessory structures incidental to the foregoing permitted uses; and
- (3) Home occupation as set forth in sections 30.05.002 through 30.05.005; ~~and~~



~~(4) Short-term rental use.~~

(c) Special uses.

(1) Short-term rental use, subject to the city council's approval of a special use permit pursuant to Article 30.05.

[...]

**Sec. 30.03.006 District R-6 (Single-Family Residential - Rural)**

[...]

(b) Permitted uses.

(1) One-family dwelling limited to no more than one (1) such building per lot occupied by no more than one (1) family;

(2) Accessory structures incidental to the foregoing permitted uses;

(3) Home occupation as set forth in sections 30.05.002 through 30.05.005; and

~~(4) Short-term rental use.~~

~~(5)~~(4) The following uses are expressly allowed in this district:

[...]

(c) Special uses.

(1) Short-term rental use, subject to the city council's approval of a special use permit pursuant to Article 30.05.

[...]

**Sec. 30.03.008 District R-8 (Multifamily Residential)**

(b) Permitted uses.

(1) Multifamily residential units not to exceed twelve (12) dwelling units per acre, connected to an organized sewer system;

(2) Accessory structures incidental to the foregoing permitted use;

(3) Home occupation uses as set forth in sections 30.05.002 through 30.05.005; and

(4) Recreational facilities for the use of residents and their guests only; ~~and~~

~~(5) Short-term rental use.~~

(c) Special uses.

(1) Short-term rental use, subject to the city council's approval of a special use permit pursuant to Article 30.05.

[...]

## CHAPTER 30

### ZONING

#### ARTICLE 30.05 SPECIAL USE PERMITS

##### Sec. 30.05.002 Special use permits

[...]

(d) Notice - Public hearings required.

[...]

(2) When required, written notice of such hearing shall be given to the owners of all real property located within two hundred feet (200') in all directions of the property that is the subject of the hearing. Notice shall be given not less than ten (10) days prior to the date of the hearing either by personal service or by depositing a copy of the notice in the mail addressed to each owner at his address shown on the last approved city tax roll, with postage pre-paid.

(3) For short-term rental use applications, written notice of such hearing shall be given to the relevant home owners/property owners association in the same manner as the required written notice to owners of all real property located within two hundred feet (200') in all directions of the subject property.

~~(3)~~(3)(4) Such notice shall state the purpose, date, time, and place of the hearing and shall contain a brief description of the proposed permit, including its nature, scope, and location. The notice shall also describe any variances the applicant has requested and shall state the location and times at which the applications and supporting documents are available for public inspection. A telephone number shall be provided where information on the hearing(s) is or will be available at a later date.

[...]

##### Sec. 30.05.004.5 Criteria applicable to short-term rental use permits

A proposed short-term rental use must comply with all the following specific criteria and conditions as well as the general criteria in Sec. 30.05.003:

1. The permit application shall include a copy of the filed Comptroller of Public Accounts' Form AP-102 (Hotel Occupancy Tax Questionnaire);
2. The permit application shall include proof of insurance with the use "short-term rental" clearly identified;
3. The total number of short-term rental use permits shall not exceed the number of short-term rental licenses in existence on December 31, 2015;
4. As of the effective date of this ordinance, no new initial permit shall be issued for residential property located within one thousand (1,000) feet of another residential property that has a current short-term rental use permit;



- a. An initial permit for residential property governed by a condominium association in accordance with Title 7 "Condominiums" of the Texas Property Code shall be exempted from the 1,000 foot distance requirement.
5. No permit shall be issued for residential property subject to deed restrictions or rules promulgated by a home or property owners' association prohibiting short-term rental use;
6. Initial permits shall be issued for a one (1) year period and shall be renewable for a two (2) year period, provided a complete application for renewal is filed with the city no more than ninety (90) days and no less than sixty (60) days prior to the expiration date of the initial permit;
7. No permit application shall be accepted for filing, processed, or approved during a period of one (1) year following the denial of an application or revocation of a permit for any residential property;
8. A permit is not transferable and shall be void upon transfer or conveyance of the property;
9. All structures housing short-term rental use shall comply with this article and all other applicable regulations of this code, and compliance shall be verified by means of an on-site inspection by city staff during review of the application;
10. Parking by renters or their guests shall be limited to the right-of-way bordering the rental property and to the garage and driveway on the rental property, and shall not encroach upon or obstruct ingress and egress to the neighboring properties;
11. Advertisement of the short-term rental use shall adhere to "truth in advertising" principles and shall clearly state maximum occupancies;
12. Advertisement of the short-term rental use shall not be displayed on the premises of the property in any manner that is visible from the exterior of the house;
13. Short-term rental use permit holders shall comply with and ensure their tenants comply with all applicable city ordinances and state laws regulating litter, waste disposal, noise, nuisance, and other regulations for the protection of the health, safety, and welfare of the public;
14. The short-term rental use shall not produce nuisances as defined in Sec. 22.02.001 or elsewhere in this code including but not limited to noise, damage, odors, inconsiderate or offensive behavior, late night parties, illegal drug or alcohol use, pets, public urination, public exposure, disturbance of the peace, disorderly conduct, or any other conduct that may constitute a public or private nuisance;
15. Rental occupancy shall be limited to two (2) adults per bedroom;
16. Minimum rental period shall be two (2) consecutive nights;
17. Short-term rental use permit holders shall file Texas hotel occupancy tax reports in a timely manner, shall maintain accurate logs including dates and times of rentals, number of guests, number of automobiles present, and complaints received, and shall forward logs to the city-designated official on a monthly basis;
18. The city manager or deputy city manager may suspend or revoke any permit for one or more of the following reasons:
  - a. A substantial violation of any of the applicable terms, conditions, or limitations;
  - b. A substantial violation of any applicable ordinance or regulation;
  - c. Operation or maintenance of the short-term rental property in a manner that is detrimental to the public's health, safety, or so as to constitute a nuisance;
  - d. Discontinuance of the use.

Determinations made by the city manager or deputy city manager may be appealed to the Board of Adjustment.

[...]